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January 24, 2018

VIA ECF

Hon. Joseph F. Bianco
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: King v. Thermo Fisher Scientific Inc.
Case No. 18-cv-399 (JFB)(GRB)

Dear Judge Bianco:

We represent Respondent Thermo Fisher Scientific Inc. ("Respondent") in the above matter. I write in response to the January 23, 2018 letter ("Letter") from Petitioner Kathy Drew King, Regional Director of Region 29 of the National Labor Relations Board ("Petitioner") requesting that the Court "consider rescheduling the hearing to take place one day earlier than the currently scheduled date of February 9, 2018, or on any earlier date on which Your Honor is available." (Letter at 1). For the reasons set forth below, Respondent opposes Petitioner's application.

This matter was initiated before this Court by order to show cause filed by Petitioner on January 19, 2018. That same day, this Court issued the order to show cause requiring Respondent to answer the Petition by February 2, 2018 and scheduling a hearing for February 9, 2018 at 1 PM. Apparently concerned with the potential for a government shutdown which may occur at midnight on February 8, Petitioner makes this request to accelerate the hearing to ensure that it is conducted in advance of a possible future shutdown. We understand from Petitioner's application that there is no request to accelerate the date of Respondent's response to the Petition which will remain at February 2, 2018.

Respondent opposes the application for several reasons. First, the possibility of a government shutdown is, of course, highly uncertain, and the preparations for hearing should not be impacted by such an uncertainty which, in the current political climate, may be a recurring event. We are unaware of any authority, and the Petitioner has cited none, which even remotely suggests that the business of this court, and the litigants before it, should be subject to the vagaries of this political climate. Moreover, while this firm has represented Respondent throughout the NLRB's investigation of the Charge and issuance of the Complaint which give



rise to this proceeding, the undersigned, who will be responsible for representation of Respondent at this Court's hearing, is new to this case and requires all the time possible to prepare for the hearing.

Moreover, Petitioner relies on the possibility of delay in "a matter that demands urgent attention." (Letter at 2). Although we expect that this will be explored further in Respondent's response to the Petition due on February 2, we note that despite Petitioner's current claim of the need for "urgent" relief, the Charge which initiated this proceeding was first filed on September 15, 2017, Petitioner took almost 3 months to investigate the charge, then issued the complaint and notice of hearing on December 7, 2017 and then waited approximately 6 weeks, to file its order to show cause. Moreover, the Charging Party, whose immediate reinstatement Petitioner now seeks, was terminated from his employment on September 14, 2017, more than four months before Petitioner initiated this proceeding. Petitioner's insistence on the need for urgent attention is, for these reasons, unreasonable. We note, as well, that a hearing before an Administrative Law Judge of the NLRB is scheduled for March 8, 2018. The underlying merits of this complaint and the credibility of the witnesses will be subject to full presentation and evaluation at that hearing. To accelerate the 10(j) hearing before this court, to the prejudice of Respondent, would, we submit, be most unfair.

As a final note, Petitioner asks that the hearing be accelerated to February 8 or such earlier date as the Court may be available. If the Court is inclined to consider Petitioner's request, over our objection, Respondent respectfully requests that any accelerated date be limited to February 8. Given the undersigned's only recent involvement in this proceeding and the myriad issues which may require attention in preparation for the hearing, any scheduling earlier than February 8 would severely prejudice Respondent in its opportunity to be fully prepared to defend its position at the hearing. If, over our objection, a date earlier than February 8 is under consideration, Respondent respectfully requests that the Court conduct a telephone conference at which the availability of counsel can be addressed before setting another date earlier in the week of February 5.

We appreciate the Court's attention to Respondent's views and respectfully request that the Court decline to accelerate the hearing date as proposed by Petitioner.

Very truly yours,

JACKSON LEWIS P.C.

A handwritten signature in black ink, appearing to read "Roger H. Briton", written over the printed name.

Roger H. Briton

RHB/eba

cc: ALL PARTIES OF RECORD (VIA ECF)

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2018, Respondent's letter in response to Petitioner's January 23, 2018 letter was electronically filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, the Eastern District's Local Rules, and the Eastern District's Rules on Electronic Service upon the following parties and participants:

Brady Francisco-FitzMaurice
Counsel for Petitioner
National Labor Relations Board, Region 29
Two MetroTech Center, Suite 5100
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ROGER H. BRITON